IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WA.No. 2784 of 2007

AGAINST THE ORDER IN WPC.34274/2007 Dated 21/11/2007
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APPELLANT/ 6TH RESPONDENT

M.M.MUKUNDA KUMAR,
S/O.MADHAVAN NAIR,
MUKUNDAVILASAM,
KOODAPULAM P.O.,
RAMAPURAM,
KOTTAYAM.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS/PETITIONERS & RESPONDENTS 1 TO 5
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1. V.A.JOSE,
MEMBER NO.4530, RAMAPURAM
REGIONAL SERVICE CO-OPERATIVE BANK,
RAMAPURAM, RESIDING AT UZHUNNALIL HOUSE,
KOTTAYAM.

2. ARUN THOMAS,
MEMBER NO.20997,
RAMAPURAM REGIONAL SERVICE CO-OPERATIVE
BANK, RAMAPURAM, S/O.K.A.THOMAS, KOLATH HOUSE,
RAMAPURAM BAZAR P.O., KOTTAYAM.

3. SAJIMON.J.,
MEMBER NO.16427, RAMAPURAM
REGIONAL SERVICE CO-OPERATIVE BANK,
RAMAPURAM, S/O.M.O.JOSEPH, MITTATHAYICKAL
HOUSE, RAMAPURAM BAZAR P.O., KOTTAYAM.

4. JINSEL JOSE,
MEMBER NO.18713,
RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK,
RAMAPURAM, S/O.K.V.GEORGE, KANANKOMBIL HOUSE,
RAMAPURAM BAZAR.P.O. KOTTAYAM.

5. KERALA STATE CO-OPERATIVE ELECTION
COMMISSION, REPRESENTED BY ITS SECRETARY,
CO.OP.BANK TOWERS, THIRUVANANTHAPURAM
PIN 695 033.

6. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, O/O. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOTTAYAM.

7. THE ELECTORAL OFFICER, APPOINTED FOR THE CONDUCT OF ELECTION TO RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK, RAMAPURAM, KOTTAYAM (THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (SC/ST), O/O JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES), KOTTAYAM.

8. THE RETURNING OFFICER, APPOINTED FOR THE CONDUCT OF ELECTION TO RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK, RAMAPURAM, KOTTAYAM, (THE UNIT INSPECTOR OF CO-OPERATIVE SOCIETIES, MEENACHIL).

9. THE RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK, REPRESENTED BY ITS SECRETARY, RAMAPURAM BAZAR P.O., KOTTAYAM.

R1 TO R4 BY ADV. SHRI P.C. SASIDHARAN.

SPL. GOVERNMENT PLEADER (SMT. A.G. ANEETHA)

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, CJ. & K. M. JOSEPH, J.

W. A. NO. 2784 OF 2007

Dated this the 23rd November, 2007

JUDGMENT

K.M. JOSEPH, J.

The appellant is the sixth respondent in W.P.(C) No.34274/07. This Appeal is lodged against an interim order passed by the learned Single Judge. The learned Single Judge has by the order stayed the order No.C.R.P.(1) 7160/K. DIS. dated 14.11.2007 of the Joint Registrar (General) Kottayam in relation to the society. He further directed that the voters list including all members who are on the rolls sixty days ago, is published. The election was directed to be provisional and the ballot boxes were not to be opened until obtaining permission of the Court.

2. The appellant, a Member of the Society has filed this Writ Appeal complaining that the learned Single Judge has erred in interfering with the electoral process after it is started. According to him, an amendment was carried out to the Byelaws of the Society. It was approved by the Joint Registrar on 21.3.2006. The relevant portion of the amendment is to the effect that the share amount of C class members was enhanced to Rs.25/- and those who remitted the balance share amount on or before 31.3.2006 will become A class members, thereby eligible to exercise their right of franchise and that those persons who have not paid the enhanced share value of Rs.25/= within the specified time will become C class members. The controversy that is raised by the appellant is that the General Body had actually resolved to grant time upto 31.3.2006 for paying of the enhanced

membership fee. When it was registered, however, according to the appellant, there was a mistake committed in so far as, instead of 31.3.2006, even though it was typed as 31.3.2006, by a correction "2006" was made as "2007", thus resulting in extending the period of time for paying the enhanced share value from 31.3.2006 to 31.3.2007. In short, the further contention, therefore, is that persons who have not paid the amount on or before 31.3.2006, but have paid the amount within 31.3.2007 would become A class members entitled to cast their votes in the election. Accordingly, he moved the Registrar for correction. The Registrar issued an Order dated 14.11.2007. The learned Single Judge has stayed the said order and the effect of the stay, according to the appellant, is that all those members who have not paid the enhanced share value within 31.3.2006, will also become entitled to vote. Then, he says that it is patently impermissible. He has produced certain documents also to show that the date "31.3.2007" can only be a mistake.

3. We heard the learned counsel appearing for the appellant and also the learned counsel appearing on behalf of the respondents besides the learned Government Pleader.

4. Having regard to the fact that it is an interim order and having heard the counsel for the parties, we feel that only the following modification is warranted in the facts and circumstances of this case, to safe-guard the interest of the parties, pending the final determination of the issue by the learned Single Judge in the Writ Petition. We would think that it is necessary that a separate ballot box be maintained, so that all those persons who have become eligible on the basis that time is granted upto 31.3.2007 instead of 31.3.2006, shall cast their votes in the separate ballot box. Accordingly, the

order of the learned Single Judge shall stand modified only to the extent as indicated above.

The Writ Appeal is disposed of as above.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

kbk.